



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 19 1997

REPLY TO THE ATTENTION OF:

SM-5J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

EPA Region 5 Records Ctr.



362931

Stephen E. Ascher, P.E.
Schwan's Sales Enterprises, Inc.
3019 Scanlan Ave.
Salina, Kansas 67401

Re: The Toledo Tie Treatment Site in Toledo, Lucas County, Ohio.

Dear Mr. Ascher:

The United States Environmental Protection Agency (U.S. EPA) has received Schwan's response to the information request letter issued on April 16, 1997. The U.S. EPA's review of this company's response raised some additional questions requiring supplementary information. In particular, information is needed regarding the boundaries of this property. Please respond to the question in Enclosure 1. Instructions and definitions pertaining to these questions are provided on Enclosures 2 and 3.

If you have not responded to the information request because you are concerned that your responses may contain information that you consider confidential, please be advised that you cannot withhold information or records on that basis. In general, confidential business information is that proprietary information that the government is bound by law to preserve the confidentiality thereof until such time as a determination has been made that it is not within the definition of confidential. Please refer to Enclosure 5 of the original letter or Enclosure 4 to this letter to assert a business confidentiality claim.

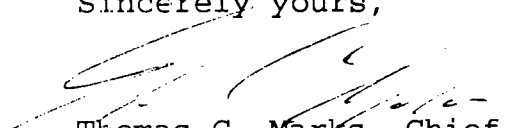
Failure to comply by fully, truthfully and immediately responding to U.S. EPA's information request, or adequately justifying such failure to respond, may subject you to enforcement action. U.S. EPA may seek to compel compliance and collect penalties of up to twenty-five thousand dollars (\$25,000) per day of noncompliance pursuant to Section 104(e)(5) of CERCLA, 42 U.S.C. Section 9604(e)(5). U.S. EPA has the authority to use the information requested herein in an administrative, civil, or criminal action.

Please provide a response to this information request within thirty (30) days of receipt of this letter. Your response to the information request should be mailed to:

Evette L. Jones
U.S. Environmental Protection Agency
77 West Jackson Boulevard (SM-5J)
Chicago, Illinois 60604-3590

Please contact Evette L. Jones, at (312) 353-9483 if you have any questions regarding this matter.

Sincerely yours,



Thomas C. Marks, Chief
Remedial Enforcement Support Section

Enclosures

ENCLOSURE I

INFORMATION REQUEST

1. Please provide a copy of a survey map for your property, Lot 22.
- 2 Does your property, Lot 22, include any portion of William's Ditch? Provide the basis for your response to this question.

ENCLOSURE II

INSTRUCTIONS

1. In answering this question, identify all persons and contributing sources of information.
2. Although the U.S. EPA seeks your cooperation in this investigation, CERCLA requires that you respond fully and truthfully to this Information Request. False, fictitious, or fraudulent statements or representations may subject you to civil or criminal penalties under federal law. Section 104 of CERCLA, 42 U.S.C. Section 9604, authorizes the U.S. EPA to pursue penalties for failure to comply with that Section, or for failure to respond adequately to requests for submissions of required information.
3. You must supplement your response to U.S. EPA if, after submission of your response, additional information should later become known or available. Should you find anytime after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify U.S. EPA as soon as possible.
4. You must respond to each question based upon all information and documents in your possession or control, or in the possession or control of your current or former employees, agents, contractors, or attorneys. Information must be furnished regardless of whether or not it is based on your personal knowledge, and regardless of the source.
5. Your response must be accompanied by the following statement, or one that is substantially equivalent:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

The individual who prepared the response or the responsible corporate official acting on behalf of the corporation must sign

and date the statement, affidavit, or certification. Include the corporate officials full title.

6. The Toledo Tie Treatment Site includes lots in the Arco Industrial Park. When responding to the questions, please provide answers referencing the Lot number(s) and/or street addresses where you own or operate a business at the Arco Industrial Park.

ENCLOSURE III

Definitions

1. As used in this letter, words in the singular also include the plural and words in the masculine gender also include the feminine and vice versa.
2. The **Site** referenced in these documents shall mean the Toledo Tie Treatment Site located in Toledo, Ohio.
3. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, 40 C.F.R., Part 300 or 40 C.F.R., Part 260-280, in which case, the statutory or regulatory definitions shall apply.

ENCLOSURE IIII

CONFIDENTIAL BUSINESS INFORMATION

You may consider some of the information confidential that the U.S. Environmental Protection Agency (U.S. EPA or Agency) is requesting. You can not withhold information or records upon that basis. The Regulations at 40 C.F.R. Part 2, Section 200 et require that the U.S. EPA afford you the opportunity to substantiate your claim of confidentiality before the Agency makes a final determination on the confidentiality of the information.

You may assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. 2.203(b). Information covered by such a claim will be disclosed by the U.S. EPA only to the extent and only by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. [See 41 Federal Register 36902 et seq. (September 1, 1976); 43 Federal Register 4000 et seq. (December 18, 1985).] If no such claim accompanies the information when the U.S. EPA receives it, the information may be made available to the public by the Agency without further notice to you. Please read carefully these cited regulations, together with the standards set forth in Section 104(e)(7) of Comprehensive Environmental Response Compensation Liability Act (CERCLA), because, as stated in Section 104(e)(7)(ii), certain categories of information are not properly the subject of a claim of confidential business information.

If you wish the U.S. EPA to treat the information or record as "confidential", you must advise the U.S. EPA of that fact by following the procedures described below, including the requirement for supporting your claim of confidentiality. To assert a claim of confidentiality, you must specify which portions of the information or documents you consider confidential. Please identify the information or document that you consider confidential by page, paragraph and sentence. You must make a **separate** assertion of confidentiality for **each response** and **each document** that you consider confidential. Submit the portion of the response that you consider confidential in a separate, sealed envelope. Mark the envelope "confidential", and identify the number of the question to which it is the response.

For each assertion of confidentiality, identify:

1. The period of time for which you request that the Agency consider the information confidential, e.g., until a specific date or until the occurrence of a specific event;
2. The measures that you have taken to guard against disclosure of the information to others;

3. The extent to which the information has already been disclosed to others and the precautions that you have taken to ensure that no further disclosure occurs;
4. Whether the U.S. EPA or other federal agency have made a pertinent determination on the confidentiality of the information or document. If an agency has made such a determination, enclose a copy of that determination.
5. Whether disclosure of the information or document would be likely to result in substantial harmful effects to your competitive position. If you believe such harm would result from any disclosure, explain the nature of the harmful effects, why the harm should be viewed as substantial, and the causal relationship between disclosure and the harmful effect. Include a description of how a competitor would use the information.
6. Whether you assert that the information is voluntarily submit as defined by 40 C.F.R. 2.201(I). If you make this assertion, explain how the disclosure would tend to lessen the ability of the U.S. EPA to obtain similar information in the future.
7. Any other information that you deem relevant to a determination of confidentiality.

Please note that pursuant to 40 C.F.R. 2.208(e), **the burden of substantiating confidentiality rests with you.** The U.S. EPA will give little or no weight to conclusory allegations. If you believe that facts and documents necessary to substantiate confidentiality are themselves confidential, please identify them as such so that the U.S. EPA may maintain their confidentiality pursuant to 40 C.F.R. 2.205(c). If you do not identify this information and documents as "confidential", your comments will be available to the public without further notice to you.